

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Number Portability Query Services

CC Docket No. 98-14

CCB/CPD 98-25

REBUTTAL IN SUPPORT OF DIRECT CASE

The primary complaint about Bell Atlantic's¹ number portability database service tariff relates to when Bell Atlantic proposes to charge rather than what it proposes to charge. Some commentators argue that they should not have to pay for Bell Atlantic to do database queries, even though they deliver calls to Bell Atlantic without having performed queries themselves. Others claim that Bell Atlantic must build extra steps — and opportunities for errors — into its already complicated implementation of number portability so that Bell Atlantic does not make queries until they are absolutely required to complete the call. These commentators wanted Bell Atlantic to deploy number portability immediately and ubiquitously, but now do not want to pay for ubiquitous database service.

Bell Atlantic fully explained what costs it is recovering through these rates and how it calculated costs and demand. These showings are more than sufficient, and Bell Atlantic's methodology was reasonable.

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¹ The Bell Atlantic telephone companies filing this tariff are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.

A. Bell Atlantic's Initiation of Its Database Service Is Reasonable.

In its direct case, Bell Atlantic explained why it is reasonable for it to do database queries when number portability is commercially available in an NXX rather than waiting until the first telephone number is actually ported. To do otherwise would introduce a significant possibility for errors that would affect the routing of calls. It would also increase the costs of the query by some 40 percent.

The process these commentors want Bell Atlantic to follow is not required by any Commission decision or industry agreement. The industry ordering or provisioning flows cited by the commentors² are not on point — they are directed at the process for designating switches for portability and for porting individual telephone numbers, not for when a carrier begins to make queries in its own network of the initiation of a database query service for others.

The loudest opponent of Bell Atlantic's process is perhaps the most unlikely. AT&T devotes at least nine pages to this issue, an issue that one would think would be irrelevant to it. The general rule established by the Commission is that the N-1 carrier performs the database look-up. On a typical long distance call, this would be the long distance company, and on most long distance calls, that means AT&T. The Commission recognized that long distance companies would be expected to perform these queries, but declined to expressly require them to deploy number portability capabilities in their networks in part based on the representation of AT&T that it would do so "as soon as possible" and its belief that "most interLATA calls will be queried by the major interexchange carriers, not the incumbent

² E.g., AT&T at 25-26; Comcast at 3.

LECs.”³ The attention AT&T devotes to this issue suggests that AT&T has changed its commitment to deploying number portability in its network and that the Commission’s understanding of who would be doing most of the queries may no longer be correct.

Vanguard and others claim that Bell Atlantic is performing “gratuitous queries” that are necessitated by “Bell Atlantic’s business decision to prematurely activate portability.”⁴ These queries are hardly gratuitous — they are done to complete calls. And the schedule for the activation of number portability was established by the Commission and the state regulators. It also suggests that Bell Atlantic has deployed number portability where there was no carrier interest in that capability.⁵ This is simply not true, as carriers have asked for number portability throughout the MSAs.

AT&T also seems to question Bell Atlantic’s decision to perform number portability queries at the tandem rather than passing all calls through the tandem and delivering them to the end office and performing queries there.⁶ The theory behind N-1 routing was to ensure the efficient processing of calls through multiple networks — calls should not have to pass through more switches than is absolutely necessary. While AT&T’s suggestion that all calls interexchange carriers deliver to Bell Atlantic’s tandems should be automatically delivered to a Bell Atlantic end office would certainly reduce the volume of number portability queries, it would also be inconsistent with the fundamental

³ *Telephone Number Portability*, 12 FCC Rcd 7236 at ¶ 125 & n.423 (1997).

⁴ Vanguard at 3.

⁵ Vanguard at 4.

⁶ AT&T at 28 n.53. Again, it is odd that AT&T is raising this issue, as its calls are generally delivered direct to the end office.

principle that queries should be performed in time to avoid having to route calls through unnecessary switches.

AT&T's proposal would also result in a lower quality of service to those customers who have switched to another local service provider, as it would take more time to deliver calls to them than to customers who have stayed with Bell Atlantic. It was the Commission's concern about just such a disparity that caused it, at the request of AT&T and others, to reject the use of Query on Release last year:

“[W]e agree with AT&T and Time Warner that the time it takes to receive a call is an important factor for many subscribers, particularly businesses that receive and respond to a large number of calls on a daily basis. If the party making a call to a business experiences additional delay because that business has switched carriers, that delay may negatively impact how the business is perceived, which, in turn, could dissuade the business from switching carriers in the first place. Therefore, we clarify that performance criterion six requires that calls to customers who change carriers (not just calls from customers who change carriers) must not take longer to complete merely because the customer has switched local service providers.”⁷

This policy requires the rejection of AT&T's proposal now.

B. All Carriers Using the Service Should Pay for It.

Sprint Spectrum does not want to have to pay Bell Atlantic for doing the queries necessary to correctly deliver calls from Sprint's customers.⁸ Its arguments for special dispensation must fail. Contrary to Sprint Spectrum's claim,⁹ it and its customers will “derive a direct benefit” from its use of Bell Atlantic's database querying capabilities — without them, calls from Sprint Spectrum customers would not be completed.

⁷ 12 FCC Rcd 7236 at ¶ 22.

⁸ Sprint Spectrum at 1-2.

⁹ Sprint Spectrum at 2.

Comcast asks the Commission to “clarify” that it is not the N-1 carrier that is responsible for number portability database queries, and therefore required to pay if it does not perform such queries, in certain circumstances.¹⁰ It argues that it is not the N-1 carrier when the terminating carrier has arranged with Bell Atlantic to provide “transit services,” that is where Bell Atlantic provides a tandem function for the terminating carrier, and that Bell Atlantic becomes the N-1 carrier in that case.¹¹ The industry has already decided this question contrary to Comcast’s position, and the Commission has adopted the industry’s decision.

The NANC recommendation to the Commission concerning local number portability contains the following statement about what carrier is responsible for database queries:

“Each designated N-1 carrier is responsible for ensuring queries are performed on an N-1 basis where ‘N’ is the entity terminating the call to the end user, *or a network provider contracted by the entity to provide tandem access.*”¹²

The Commission accepted this recommendation and incorporated this requirement into section 52.26 of its Rules. Thus, Bell Atlantic does not become the N-1 carrier where it provides transit or tandem services for the terminating carrier, and Comcast is responsible for the database queries on such calls it delivers to Bell Atlantic.

Comcast also argues that allowing Bell Atlantic to charge for this service would “effectively alter binding [interconnection] agreements” between the two carriers.¹³ Comcast

¹⁰ Comcast at 13-15.

¹¹ Comcast at 5-8.

¹² North American Numbering Council, Architecture and Administrative Plan for Local Number Portability ¶ 7.8 (emphasis added).

¹³ Comcast at 15.

cannot hide behind its existing contract with Bell Atlantic when Comcast begins to use a new service, one that the Commission has already determined that Comcast must pay for.¹⁴

C. The Development of the Tariff Charges Was Reasonable.

The method Bell Atlantic used to develop its rates, as described in the Description and Justification and Direct Case, is lawful and reasonable.

In its D&J and direct case, Bell Atlantic demonstrated that costs such as those incurred to modify OSS and billing systems are directly related to providing number portability and are properly included in query charges.¹⁵ AT&T seems to agree that OSS and billing costs may be recoverable, but criticizes Bell Atlantic for offering “only anecdotal information.”¹⁶ It is unclear what level of detail AT&T thinks Bell Atlantic must provide. All the systems described plainly had to be modified to operate in the world with number portability. Therefore, these are costs of establishing number portability, and a portion of them should be recoverable through this tariff. Requiring Bell Atlantic to describe every feature of every system that had to be changed would be a waste of Bell Atlantic’s time and that of the Commission.

Cost study questions. The specific complaints about Bell Atlantic’s cost study are also without merit.

¹⁴ Although wireless carriers argue that they should not have to pay for query service, they also complain that Bell Atlantic has not offered it in the way they want, with an IS41 interface. Comcast at 10; Vanguard at 8-10. To the best of Bell Atlantic’s knowledge, the final standards have not yet been developed for this interface and the manufacturers, therefore, have nothing to build to. If there is sufficient demand for this capability when it is available, Bell Atlantic will provide it.

¹⁵ D&J Workpaper 6-9; Direct Case at 2-3.

¹⁶ AT&T at 12.

Several commentators note Bell Atlantic's statement that it used overhead loadings in developing its rates.¹⁷ This was proper when the tariffs were filed, and Bell Atlantic could not have been expected to divine what was going to be in an order that had not been adopted. Whatever the rules are in the future, Bell Atlantic will follow them. However, Bell Atlantic cannot be faulted, or required to pay refunds, for following the rules that were in effect when the tariff was filed. AT&T criticizes Bell Atlantic for citing "no authority of any kind for this proposition."¹⁸ Not surprisingly, AT&T cites none for the proposition it asserts, that a carrier is required to follow rules before they are written.

Even if overhead loadings are not to be used when calculating the end user surcharge for recovering the costs of establishing number portability, this would not preclude using them in setting rates for number portability query services. The query services are on-going services that utilize various components of a local exchange carrier's network — both voice and signaling elements — much like ordinary access services. And like access services, query services should bear their fair share of Bell Atlantic's general overhead costs.

AT&T claims that Bell Atlantic's general overhead factor is "unreasonably large" and suggests that final ratio of price to cost is too high.¹⁹ AT&T is wrong on both counts. The 1.6 overhead factor Bell Atlantic used in this filing is similar to the factors used in

¹⁷ *E.g.*, AT&T at 9-11; Time Warner at 5-8.

¹⁸ AT&T at 9.

¹⁹ AT&T at 10.

other tariffs.²⁰ Likewise, the price-to-cost ratios of 1.19 to 1.54 are lower than those of many Bell Atlantic tariffs.²¹

Number portability query services use Bell Atlantic's pre-existing network facilities and the new capacity Bell Atlantic needed to provide number portability. AT&T is, therefore, wrong when it argues that Bell Atlantic should not be allowed to recover these costs, just because the facilities were already installed.²² Query services use the network, and it is certainly reasonable for Bell Atlantic to recover for that usage from the users of those services.

Demand forecast questions. AT&T (perhaps intentionally) misreads Bell Atlantic's description of how it estimated demand.²³ Bell Atlantic did not, as AT&T suggests, include queries on intraoffice calls, because there are no such queries. What Bell Atlantic did include was its estimate of the number of queries for calls that *would have been* intraoffice if the customer had not switched to another carrier — because that telephone number is no longer in the switch, a query is required. This estimate was based, as Bell Atlantic indicated, “on Bell Atlantic's assessment of the impact of local competition.”²⁴

AT&T also (again perhaps intentionally) misreads another point in Bell Atlantic's direct case.²⁵ Bell Atlantic did not say that performing queries only on calls to NXXs in

²⁰ E.g., Transmittal No. 557, 1.6845; Transmittal No. 741, 1.6405; Transmittal No. 617, 1.6844; Transmittal No. 581, 1.6844.

²¹ E.g., Transmittal No. 1027, 1.72; Transmittal No. 1039, 1.66.

²² AT&T at 13-15.

²³ AT&T at 17-18.

²⁴ Direct Case at 6 n.11.

²⁵ AT&T at 19 n.33.

which a number has been ported would not increase its costs — just the opposite, that the query cost would increase by some 40 percent. What Bell Atlantic did say, in response to a question in the *Designation Order*, was that there probably would be no economic difference to anyone if Bell Atlantic performed queries on calls to all NXXs, but merely recovered the costs of doing so through a charge on queries to NXXs with ported numbers.

Conclusion

Bell Atlantic's rates and other terms and conditions for this service are reasonable, and the Commission should conclude its investigation of them.

Respectfully submitted,



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